

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
U.S. UNDERWRITERS INSURANCE COMPANY,

Plaintiff

CIV: 07 CIV 8690

JUDGE SWEET

-against-

MEL-MAR REALTY CORP., FRANK RIVERA, MECHANICAL
HEATING SUPPLY, INC., JOSE AMADEO ZELAYA and
MARIA ZELAYA

Defendants
-----X

ANSWER AND COUNTER CLAIM

FELBERBAUM, HALBRIDGE & WIRTH

Attorneys for FRANK RIVERA, MEL-MAR REALTY CORP., and
MECHANICAL HEATING SUPPLY, INC.

357 Veterans Memorial Highway
Commack, New York 11725
(631)864-0800
(631)864-3599

-----X

U.S. UNDERWRITERS INSURANCE COMPANY

Civil Action
No. 07 CIV 8690

Plaintiff

Judge Sweet

-against-

MEL-MAR REALTY CORP., FRANK RIVERA.
MECHANICAL HEATING SUPPLY, INC.
JOSE AMADEO ZELAYA and MARIA ZELAYA,

Defendants

-----X

The Defendant(s) FRANK RIVERA, MEL-MAR REALTY CORP., and

MECHANICAL HEATING SUPPLY, INC., their attorneys, as and for their Answer to
the Complaint herein, allege(s) as follows:

1. Denies, upon information and belief, the allegations of paragraphs: 4, 8, 9, 10,
21, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48,
49, 50, 51, 52, 57, 58, 59, 60, 64, 65, 66, 68, 69, 70, 71, 72, 73, 74, 75.

2. Denies having knowledge or information sufficient to form a belief as to the
truth of the allegations of paragraphs: 1, 2, 6, 7, 11, 14, 17, 24

3. Denies having knowledge or information sufficient to form a belief as to the
truth of the allegations of paragraph 19 except admits a policy was in effect as stated in
paragraph number 12 of complaint.

4. Denies having knowledge or information sufficient to form a belief as to the
truth of the allegations of paragraph 22 except admits Jose Amadeo Zelaya was hired by
defendant Mechanical Heating Supply, Inc.,

5. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 except admits Jose Amadeo Zelaya was hired by defendant Mechanical Heating Supply, Inc.

6. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54 except admits policy was in effect as stated in paragraph 12 of complaint.

7. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62 except admits policy was in effect as stated in paragraph 12 of complaint.

8. As to paragraphs 18, 53 and 61 repeats and realleges all of the above mentioned denials and admissions.

9. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67 except admits plaintiff received notice of the lawsuit.

AS AND FOR A FIRST AFFITMATIVE DEFENSE THIS
ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

10. Plaintiff failed to disclaim coverage in a timely fashion.

AS AND FOR A COUNTER CLAIM

11. Defendant repeats, reiterates and realleges all of the above admissions and denials.


12. Defendant is claiming attorneys fees for the defense of this action.

together with costs, disbursements and attorneys fees.

Dated: November 20, 2007

Commack, New York 11725

Yours, etc.



ROBERT C. WIRTH

FELBERBAUM, HALBRIDGE & WIRTH

Attorneys for Defendants

Mel-Mar Realty Corp, Frank Rivera &

Mechanical Heating Supply, Inc.

357 Veterans Memorial Highway

Commack, New York 11725

(631)864-0800

To:

Miranda, Sokoloff, Sambursky, Slone, Verveniotes, LLP

Attorneys for Plaintiff

US Underwriters Insurance Company

240 Mineola Boulevard

The Esposito Building

Mineola, New York 11501

(516)741-7676

File #: 07-566

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

US UNDERWRITERS INSURANCE COMPANY

Plaintiff

-against-

APPEARANCE

MEL-MAR REALTY CORP., FRANK RIVERA, MECHANICAL HEATING

SUPPLY, INC., JOSE AMADEO ZELAYA AND MARIA ZELAYA

Defendants

Case Number: 07CIV 8690

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for MEL-MAR REALTY CORP.,
FRANK RIVERA & MECHANICAL HEATING SUPPLY, INC.

I certify that I am admitted to practice in this court.

Date 11/26/2007


Signature ROBERT C. WIRTH
FELBERBAUM, HALBRIDGE & WIRTHPrint Name
357 Veterans Memorial HighwayAddress
Commack, New York 11725

City State Zip Code

US UNDERWRITERS INSURANCE COMPANY

Case No. 07 CIV 8690

-v-

MEL-MAR REALTY CORP., FRANK RIVERA
MECHANICAL HEATING SUPPLY, INC.,
JOSE AMADEO ZELAYA and MARIA
ZELAYA

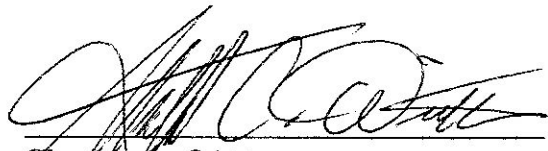
Rule 7.1 Statement

Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for

MEL-MAR REALTY CORP, FRANK RIVERA & _____ (a private non-governmental party)
MECHANICAL HEATING SUPPLY, INC.

certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held. NONE.

Date: November 26, 2007



Signature of Attorney

ROBERT C. WIRTH
FELBERBAUM, HALBRIDGE & WIRTH
Attorney Bar Code: RW2160